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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,638	09/22/2003	Pierre Talbot	01393-P0074A	1107
24126	7590	03/25/2005	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			UPTON, CHRISTOPHER	
986 BEDFORD STREET			ART UNIT	PAPER NUMBER
STAMFORD, CT 06905-5619			1724	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,638

Applicant(s)

TALBOT ET AL.

Examiner

Christopher Upton

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(f) he did not himself invent the subject matter sought to be patented.

2. Claims 1-5 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter. A material comprising fragments of coconut mesocarp, with other materials such as epicarp and coconut kernel is a naturally occurring substance, as would be found as a crushed or opened coconut. The recitation of “biofilter material” is intended use language failing to limit the material claimed.

2. Claims 1-5, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Toyone or German patent 44 15 963.

Claims 1-5, 28 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Haridas.

Haridas, Toyone and the German patent each disclose the use of coconut mesocarp (coir, which appears to contain both parenchyma and fibers in the German

patent and Toyone; and a disclosure of both pith and fiber by Haridas) and other substances, as a biofilter for air, which is a fluid, as claimed.

3. Claims 1-6, 10-13, 16, 17, 19 and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Simpson et al.

Simpson discloses a downflow liquid biofilter having a layer of coconut mesocarp (coir), over other media, such as sand, as claimed.

4. Claims 1, 3-7, 9, 10, 12, 14-20, 22 and 24-29 rejected under 35 U.S.C. 102(e) as being anticipated by Festa et al.

Festa discloses a biofilter having mixed peat and coconut fibers, along with layers of sand and rock, as claimed.

5. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al in view of Kusey et al, Meerow, Pryce, Chweya et al, Stamps et al, Ismail et al, or Evans et al; and Haridas, Toyone or German patent 44 15 963.

Boyd discloses a biofilter having layers of peat in a configuration substantially as claimed. Since Kusey et al, Meerow, Pryce, Chweya et al, Stamps et al, Ismail et al, and Evans et al each disclose that the characteristics of coconut mesocarp (coir) are similar to peat, and may be substituted for peat; and Haridas, Toyone and the German patent disclose the suitability of coconut mesocarp as a biofiltration media; it is submitted that coconut mesocarp, or a mixture of coconut mesocarp and peat, as disclosed by Kusey and Ismail, would have been an obvious substitution for peat in the biofilter of Boyd, absent a declaration showing unexpected results for coconut mesocarp.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Other references of interest include Engwer and Austin.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 7:30-5:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher Upton
Primary Examiner
Art Unit 1724